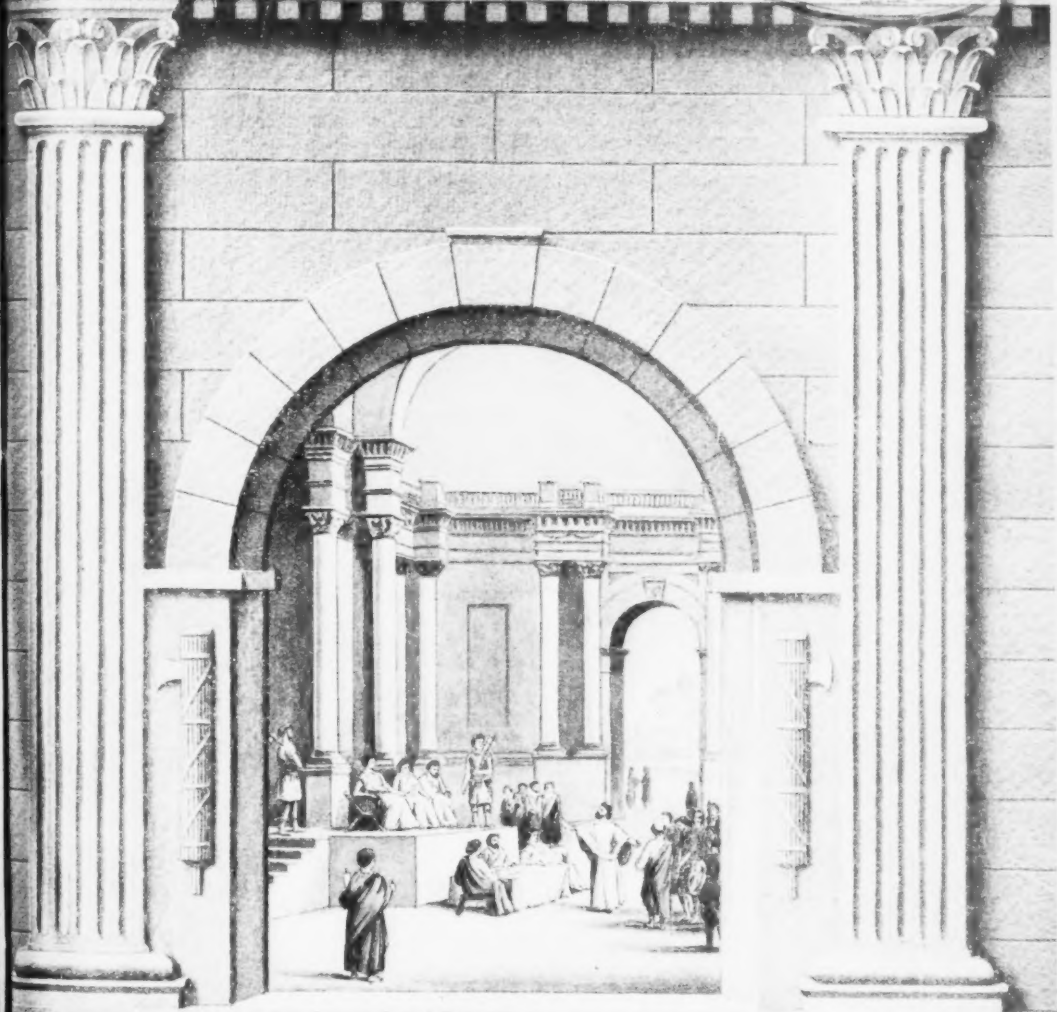


CASE AND COMMENT

APRIL, 1909



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Vol. 15

No. 11

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Table of Contents

EDITORIALS :

President Taft, 249.

Ex-President Roosevelt, 249.

Nominations for Office, 252.

Prosecution for Libel Where Paper is Delivered, 253.

Recovery for Goods Sold by Illegal Trust, 255.

Scandalous Receiverships, 256.

AMONG THE NEW DECISIONS, 256.

INTERNATIONAL AFFAIRS, 266.

NOTES FROM OTHER NATIONS, 268.

JUDGES AND LAWYERS, 268.

LAW SCHOOLS, 271.

NEW LAW BOOKS, 271.

RECENT ARTICLES IN LAW JOURNALS AND REVIEWS, 272.

THE HUMOROUS SIDE, 273.

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President Taft.

The nomination and election of William H. Taft to the presidency has been, for two or three years, regarded by most people as a well-nigh foregone conclusion. While he was not the only candidate in the convention last year, few people had any doubt of his nomination. Ardent supporters of other candidates, in a final and desperate attempt to arouse public opinion against his candidacy, made loud complaints of the "steam roller" which was passing over them and crushing their hopes. But the power of the steam roller lay in the deep-seated belief of the people at large that, among the other able men named for the position, William H. Taft would be the wisest choice. His preparation for the presidency was probably more complete than any other president ever had. On the bench, he had dealt with some of the most important questions in the judicial department of the government, and had demonstrated his learning, his courage, and the soundness of his judgment. Summoned unwillingly to serve as governor of the Philippines, his administration was ex-

traordinarily wise, humane, just, far-sighted, and successful, and won the gratitude, confidence, and affection of the people. In other countries also, as in Panama and Cuba, perplexities and troubles seemed to melt away in the presence of the clear-brained, fair-minded, and genial globe trotter of the administration. In the Cabinet he has also been in the closest touch with all the great national questions of recent years. His experience, therefore, in the wide range of public affairs, both national and international, has been very broad, and his success in them all has been extraordinary. Men of all parties and in all parts of the country seem to feel that the interests of the nation are safe in his hands, and that he will be equally at home in dealing with all problems, whether domestic or foreign. Whatever the result may prove, it is certain that, at the beginning, the nation at large expects a wise administration, less impetuous than that of Roosevelt, but not less stern against wrong, nor less steadfast in righteous ideals.

Ex-President Roosevelt.

Many people regard our Ex-President as the greatest American of his time. All regard him as a most remarkable man. His friends are grappled to him with hooks of steel, and his enemies hate him with a deadly hatred. At one period of his service he was the most popular president in the history of the nation. Toward the end of it, he met a storm of opposition and detraction. Nevertheless, to the last he has

retained to an astonishing degree the confidence and love of multitudes of people, irrespective of party.

No public man was ever more essentially and typically human. The elemental forces of humanity are strikingly exhibited in him, and none have lived who could say more truthfully in the words of Seneca, "I count nothing human alien to me." With frontiersmen or diplomats, cowboys or scien-

tists, day laborers or scholars, he is equally at home. The narrowness and bigotry of class and caste have no place in his mind. It is this breadth of his humanity, coupled with love of justice, that has made him an uncompromising enemy of favoritism and special privileges. This explains in large degree how it is that, notwithstanding his mistakes and faults, and in spite of fierce and acrimonious assaults by his enemies, and the belief of many that he was the cause of the panic of 1906, he still retires from office with a popularity throughout the nation such as few presidents ever possessed at the close of an administration.

Two qualities which all the world has learned to think conspicuously characteristic of him are courage and honesty. While his experience as police commissioner of New York was still fresh in memory, a stanch Tammany politician said, "Tammany Hall likes Roosevelt because Tammany Hall hates a coward, and Roosevelt isn't a coward." The belief that he is honest and brave is the foundation on which all his popularity has been built. His most conspicuous characteristic, according to one who stood near him in official relations when he was governor of New York, is his "devotion to high purposes." He has often been called opinionated, but those who know him best say that no man is more ready to change a declared opinion for any sufficient reason. His successor in the presidency, after years of intimate association with him as a subordinate, emphasizes the same fact in the following remarkable words: "I have had to do with a number of Presidents and with a good many chiefs, and I am well within the truth when I say that I never met a man who, upon proper presentation, would reverse himself as willingly and with as little trace of obstinacy or unreasonableness as Mr. Roosevelt." His unlimited frankness and lack of restraint in speech has annihilated the once popular theory that the first requisite of success in public life, especially in reaching elective offices, is to be very discreet in one's

utterances and to express no views on any question not settled by a party platform; but if there are any questions—international, national, domestic, or orthographic—on which President Roosevelt has not expressed himself freely, he must have inadvertently overlooked them. Yet many whose views he antagonized remained his staunch supporters.

His readiness to undertake unpopular or dangerous work is also in strongest contrast with the traditional policy of successful politicians. His resignation of a national office to accept the thankless and well-nigh hopeless task of police commissioner of New York city was almost universally looked upon as fatal to his future political prospects. His resignation, again, of another national office to enter the field as a soldier, was thought hardly less imprudent. Of course, when success crowned these supposed mistakes, his critics alleged that each of them had been a shrewdly calculated political move, while the public in general credited him with daring to do his duty without regard to the risks.

Some loudly proclaimed estimates of the man and prophecies of his action are amusing in the retrospect. His election was opposed on the ground that his rashness and belligerency would keep the nation in constant war, yet he made a name as the peacemaker of the world. Again, he started our Navy around the world amid the clamor and shrieks of a hostile press that this meant war. But the majestic fleet, encircling the earth in peaceful glory, ended its unparalleled cruise with a mission of mercy to stricken cities of another nation. He was charged with an ambition to be the power behind the new administration; but, as he went out of office, he went out of the Capitol to make immediate preparation for going to distant Africa, so that not even a suspicion of his influence could remain to embarrass his successor, and refused to be longer interviewed on public affairs.

The achievements of the Roosevelt administration cannot yet be summed up without sharp controversy; but

many things are beyond dispute. In international affairs it has done much to promote peace, secure cordial relations with other nations, and give the United States a commanding position among the powers of the world. Most, if not all, the laws which he vigorously pressed against strong opposition are now taken as a matter of course, and no one seeks their repeal. The national and international movements he has started to save the vast natural resources of the people from criminal and foolish waste meet universal approval; but the greatest achievement of the period is the extraordinary revolution against lawless forces in business and politics which, but a few years ago, seemed entrenched in impregnable position. Great corporations and combinations were not merely violating, but, in some cases, actually defying, the law. To compel them to observe it was thought impossible. The question was whether they were more powerful than the government; and most people thought they were. Graft, even if known, was practically immune. Officials, however honest and well-meaning, when asked to investigate a case of political corruption, would almost invariably say confidentially that it was of no use; that the complainant would only make himself obnoxious and discredited because his attempt would be unsuccessful. It is not so now. Men and corporations, large or small, know that the law must be obeyed, and the people know that it can be enforced against them. Officials are no longer too timid to investigate and prosecute political graft. No wise man believes the millennium has come, but every man knows that, in a fair degree, the supremacy of law has been re-established. The taunt that the government is powerless against big capitalists or corporations is no longer heard. The average citizen to-day recognizes himself as a factor in government far more than he did a few years ago. The part that Theodore Roosevelt has played in this civic revolution cannot be estimated. Long before he became President, he had, by

tongue and pen, begun to impress on men of every class that each of them owed a duty to the public. In pointed phrase he said that a man's first duty was to his family; but when his income was sufficient for their needs, he owed his service to the public. This he emphasized and reiterated to chambers of commerce, conventions of women, bodies of clergymen, Chautauqua assemblies, and crowds of farmers at county fairs with untiring repetition and unflagging earnestness; then came at them all again through the columns of magazines. His picturesque career, his powerful personality, his amazing energy, and his great popularity made his words effective with every class of people, from financiers and scholars to newsboys and bootblacks. Many did great service in this movement, but he was by far the most powerful of them all in bringing about the new era in which the people are determined to have honest and just government, and are conscious of their power to secure it.

The responsibility for the interruption of prosperity during the past administration is, of course, a matter of vigorous and bitter dispute. Many who acknowledge the great good accomplished believe it could have been done with far less damage to business. Many others believe that the chief responsibility for all unnecessary damage rests upon those newspapers which, for months before the panic came, ceaselessly and sensationally alarmed the people by cries that the President was attacking prosperity. It would be useless to discuss the matter here. That President Roosevelt has been unnecessarily harsh in personal controversies is well-nigh universally admitted. That his intensely human personality exhibits faults common to humanity is equally obvious. But, taking him all in all, the multitudes of his countrymen will not doubt that his true character is indicated, not by the attacks of his enemies or of those who think they have some grievance against him, but by the great esteem, affection, and honor in which he is held, after years of intimate association with him, by such men as

Philander C. Knox, Elihu Root, and William H. Taft. His place in history is not finally fixed; but, in the language of the London Times, "Nobody, however, will hesitate to say, even now, that Roosevelt's tenure of office has made the American presidency much more conspicuous, interesting, and impressive in its influence on the world's affairs, than that of any of his predecessors except the few who have already been canonized by the world as great."

Nominations for Office.

The persistent effort of the people in the different states to free themselves from the domination of political organizations in the selection of candidates for office is significant. It recognizes that the nomination of candidates is the pivot on which the whole machine turns. The adoption of direct nominations in a considerable number of states seems likely to introduce a new epoch in politics. The agitation for similar laws in still other states presents in the minds of many people the most vital political issue of the year. In New York state the demand for such a law is presented by Governor Hughes, and the opposition to it comes from leading representatives of party organizations.

The arguments of the politicians against the system of direct nominations assume, for the most part, that the present system offers an equally good opportunity for the expression of the popular will if the voters would only attend the caucuses. This assumption is so clearly false that no one ought to be misled by it. Under the old system, the voter who goes to caucus cannot usually vote for the person whom he wishes nominated, but only for delegates to a convention. In many cases that convention sends other delegates to a still higher convention. Again, the delegates who actually make the nominations almost always have to name candidates for more than one office, so that it is a practical impossibility for them to represent each of the voters who sent them with respect to

each office. In most cases, the voters must put their faith in the delegates without any pledges as to what they will do in convention. Here the system of direct nominations makes a radical and immense improvement, in that it gives each voter who attends the caucus a right to express himself directly and unmistakably in favor of the candidate for each office to be filled.

The evils existing in the convention system, strangely enough, seem to have had little discussion in the press or in the public discussion of the subject; but political conventions constitute the chief centers of political corruption. The secret ballot now commonly used makes the purchase of voters difficult, and has gone far toward extinguishing it; but in the nomination of candidates there is still unlimited opportunity for secret and corrupting influences to control the votes of purchasable delegates. Even when there is no actual bribery, any real contest for a nomination commonly ends with a dicker by which one of the rival candidates turns over the delegates whom he can control in exchange for agreed considerations, such as promised help in obtaining some other office, or, at the least, a reimbursement of the moneys that he has himself spent in his campaign for the nomination. For our highest offices public opinion is often strong enough to dominate the choice; but in many, if not in most, cases, the nomination of an officer by a convention is obtained with more or less aid of bargains on behalf of the successful candidate with his rivals or their lieutenants. Even if these bargains between candidates are innocent of anything corrupt, it is certain that a nomination made by such a bargain is made by the office seekers, and not by the voters. But instances in which important nominations are made by deals that would not bear the light, and by influences that, if known, would put the criminal brand on those who secured or delivered the deciding votes, are not unknown and not rare. Some men bear public honors with heads erect whose hearts would wither at the knowledge that all they had ever done in political conventions was

to be set forth in to-morrow's press reports. The currency of practices questionable or worse in conventions has often carried pretty good men into political work that they would gladly forget. Many men eminent in business privately justify themselves for the bribery of state officials on the ground that it is imperatively necessary to do it in order to get what they are entitled to. So, many a man who revolts at such practices has done political work of which he is ashamed because he felt compelled to do it in order to compete with his rivals. For the perpetuation of the worst elements and the most abhorrent influences in politics, there is nothing so much responsible as nominations by political conventions. On this point Governor Hughes briefly touched as follows: "The best information would be obtained if every member of the legislature and every man in public life were to file a true and veracious account of how he was nominated." It is to be said, however, that many a man who would be guilty of nothing dishonorable to obtain any office has been nominated by dishonorable methods of which he had no knowledge. Sometimes, it may be, he has had an uncomfortable feeling that it would not be best to ask questions, else he might find himself the beneficiary of what would stain his honor. Those who are fighting against direct nominations almost invariably ignore this question of pernicious methods and influences in conventions. From their standpoint, the less said about it the better; but the voters should clearly understand that political conventions are not only the last strongholds of the bosses and professional politicians, but also the chief breeding places of political corruption.

Prosecution for Libel Where Paper is Delivered.

A portion of the press denounces the action of the Federal government in indicting certain nonresident newspaper proprietors for criminal libel in Washington, D. C., as persecution, and un-

dertake to make it appear that this is a violent stretching of jurisdiction. The same journals quite generally undertook at the outset to make the public believe that these prosecutions for libel were a preposterous attempt to revive ancient seditious laws. They had to abandon that theory when it was definitely shown that the prosecution was not for criticizing the government, but was a plain, ordinary kind of prosecution for criminal libel of individuals. Now, in attacking the jurisdiction because the offending journals were not published in the District of Columbia, it is vigorously urged that this is oppressive and tyrannic. It is assumed, or expressly declared, to be a violent stretching of jurisdiction. Some knowledge of the authorities on the principle of law involved will aid in appreciating the justice of these assaults on the prosecution.

It is by no means a novelty for statutes on the subject of libel to provide that jurisdiction of the offense is not limited to the place where the libel was written or printed, but extends to every place where it was circulated. In other offenses, also, both under statutes and at common law, where an offense is begun by an act done in one place and completed by an act done in another, jurisdiction to punish it exists in the place where the crime was consummated. Thus, in *State v. Hall*, 114 N. C. 909, 41 Am. St. Rep. 822, 19 S. E. 602, 28 L.R.A. 59, it was held that, in the absence of statute, no jurisdiction existed in that state of the crime of murder committed by a person who, while standing in the state, shot across the state boundary, and killed a person in Tennessee. A note to the case in 28 L.R.A. 59, shows that the other authorities on the subject agree in the principle that the place where the shot takes effect, and not where the guilty party stood when he did the act, is the place of jurisdiction over the crime. Statutes in many states have made express provisions to the same effect. The principle governs not only in cases of striking or shooting across a boundary line, but also in the more numerous cases in which a crime is

committed through the agency of the mails or of carriers. Thus, in *State v. Hudson*, 13 Mont. 112, 32 Pac. 413, 19 L.R.A. 775, where a forged instrument was sent by mail, jurisdiction to punish it was held to be at the place where it was received, instead of the place where it was mailed; and numerous cases collated in a note to this case in 19 L.R.A. 775, sustain the same doctrine. This principle has been applied to the case of threatening letters, letters to defraud, the mailing of forged instruments, as well as to other cases.

The doctrine above declared has been frequently applied to libel cases also by the courts in state, Federal, and foreign jurisdictions. Some of the cases on this subject are as follows: *Tingley v. Times-Mirror Co.* 144 Cal. 205, 77 Pac. 918; *Cincinnati Times-Star Co. v. France*, 22 Ky. L. Rep. 1666, 61 S. W. 18; *Louisville Press Co. v. Tenny*, 105 Ky. 365, 49 S. W. 15; *Meriwether v. Publishers: George Knapp & Co.* 211 Mo. 199, 109 S. W. 750, 16 L.R.A. (N.S.) 953; *Julian v. Kansas City Star Co.* 209 Mo. 35, 107 S. W. 496; *Belo v. Wren*, 63 Tex. 686; *Bailey v. Chapman*, 15 Tex. Civ. App. 240, 38 S. W. 544; *Haskell v. Bailey*, 11 C. C. A. 476, 25 U. S. App. 99, 63 Fed. 875; *Marcotte v. Therien*, Rap. Jud. Quebec, 22 C. S. 315. In some states decisions to the contrary have been rendered on the ground that the terms of the statutes restricted jurisdiction to some particular district or county. The doctrine has not been limited to civil actions, but is by some statutes, such as that of the New York Penal Law, § 1326, expressly enacted to govern the prosecution of indictments for criminal libel, so that, where a newspaper is published in the state, prosecution may be had "either in the county where the paper is published or in the county where the person libeled resided when the offense was committed." This provision now in the penal law of New York was not new, but has long been in the Penal Code of the state. It is therefore quickly apparent from a review of the authorities that it is no new principle or doctrine that an injury may be prosecuted or

punished at the place where it was suffered, though the wrongful act was begun in another jurisdiction, and was completed by some means such as by the use of missiles, or through the agency of the mails or common carriers.

The argument that it is an oppressive or tyrannical exercise of governmental power to transport an accused person from his residence to another jurisdiction for trial in such cases has plausibility at least; but its soundness is by no means beyond question. It would be a travesty on justice if a man standing on one side of a state line could shoot bullets or hurl bombs across the line, carrying death to persons on the other side, and yet be immune from prosecution at the place where the crime was consummated. It is hardly less obvious that the same rule applies where the criminal accomplishes his purpose and consummates the crime through the agency of the mails or of common carriers. Nor does there seem to be any sound reason for denying that libel consummated by sending the libelous document to another jurisdiction by mail or by express comes justly within the operation of the same principle. All such cases are to be sharply distinguished from those in which the accused has consummated the crime at the place of his residence, and an attempt is made to prosecute him for that outside of the jurisdiction in which it was committed. Under article 6, of the Amendments to the Federal Constitution, the accused has the right, in a Federal court, to be tried in the state and district where the crime was committed. But, in the case of a criminal libel transmitted by mail or by common carrier to another jurisdiction, the decisions above cited show that the place where the libel was circulated may constitute the place where the crime was committed, though the criminal resides and initiated the wrongdoing elsewhere. In principle, transportation of the accused, in case of criminal libel, from one Federal district to another, for violation of Federal law, is no more obnoxious to his constitutional or fundamental rights than would be his transportation

from one county or district of a state to another when prosecution was under state law. That this can be done under such state laws as that of New York, for instance, is not questioned. Whether it can be done under Federal law or not, of course, depends on the provisions which Federal laws have made on the subject. In *Re Dana*, 68 Fed. 886, the removal from New York to Washington of the accused on a charge of criminal libel under U. S. Rev. Stat. 1014, U. S. Comp. Stat. 1901, p. 716, was denied. The fundamental reason was that at that time there was no statute or law of the United States making libel a crime in the District of Columbia. But the judge of the District court expressed the opinion that, neither under that section nor under § 33 of the judiciary act, was there any provision for removing a prosecution to the District of Columbia for an offense against the local law of that District. The case depends entirely on the provisions of the Federal law now existing as to jurisdiction and removal of such prosecutions; but the attempts of the accused and their sympathizers to make the public believe that it is unprecedented or oppressive to prosecute an offender at the place where the crime that he committed through the agency of the mails or of common carriers was consummated cannot succeed.

Recovery for Goods Sold by Illegal Trust.

The recent decision of the Supreme Court of the United States in the case of *Continental Wall Paper Co. v. Louis Voight & Sons Co.*, Adv. S. U. S. 1908, p. 280, 29 Sup. Ct. Rep. 280, has been widely heralded as if it were a sweeping decision against the right of any illegal trust to recover for goods sold by it; but the case falls far short of such a conclusion. The language of the opinion is not definite enough to make an exact statement of the effect of the decision an easy matter. The court leaves the question with the somewhat vague conclusion that a recovery for goods could not be had in

the case on sales made by a corporation created to effectuate a combination of wall paper manufacturers which was intended and had the effect directly to restrain and monopolize trade and commerce in violation of the statute, where the account for the goods was made up within the knowledge of both buyer and seller, with direct reference to and in execution of the agreements which constituted the illegal combination. Under what circumstances an account for goods sold by a trust would be deemed to have been made up with direct reference to and in execution of the illegal agreements, the court fails to make clear and definite. It does deny any intention to overrule the case of *Connolly v. Union Sewer Pipe Co.* 184 U. S. 540, 46 L. ed. 679, 22 Sup. Ct. Rep. 431. The latter case held that it was no defense to an action for goods sold by a trust that the trust constituted an illegal combination against the anti-trust laws; but it is now pointed out by way of distinction that, in the *Connolly Case*, the contract of sale was not a part of, nor in execution of, any general plan or scheme condemned by law, but was fully collateral to and independent of the illegal combination. This distinction between the two cases is denied by the four dissenting Justices, Holmes, Brewer, White, and Peckham. They say that there was as much of a scheme in the one case as in the other, and that in both there was just the same scheme. Nevertheless, the majority of the court contends that, in the *Connolly Case*, the decision merely denied that a recovery of the purchase price of the goods could be defeated by reason alone of the illegal character of the plaintiff corporation, while in the *Wall Paper Case* the account sued on was made up within the knowledge of both buyer and seller with direct reference to and in execution of the agreements which constituted the illegal combination. The chief difference between the two cases seems to be, first, that in the *Wall Paper Case* the trust had virtually compelled the defendants to sign a jobbers' agreement binding them to buy from the plaintiff all the wall paper needed

in their business, at certain fixed prices, and not to sell at lower prices or upon better terms than those at which the plaintiff itself sold to dealers other than jobbers; second, that this case was decided on a demurrer to the answer which admitted, among other allegations, that the goods were ordered pursuant to such illegal agreement and at the prices fixed, that such prices were unreasonable, and that all the transactions between the parties were in furtherance of the illegal combination. Some emphasis is laid by the court on the admission of these allegations; but, if the specific facts merely, as distinguished from such general allegations, are considered, the main distinction between the two cases seems to be in the existence of the intermediate jobbers' contract. The dissenting judges, however, contend that the actual sales were made by distinct orders for goods which had no more than an implied reference to the general contract for the matter of prices, and that, in reality, the whole business in this, as in the Connolly Case, was done by the specific purchases on which the suit was brought; but the majority of the court evidently regarded the intermediate jobbers' contract as a connecting link between the illegal trust and the distinct sales of goods. It seems impossible, however, to deduce from the case any very clear statement of a rule or test by which to determine when sales by a trust will be pursuant to or in furtherance of an illegal trust agreement. One thing at least seems certain, and that is, that the law on this matter will be uncertain until the court has more clearly defined the dividing line between these two cases.

Scandalous Receiverships.

In no other matter have the courts received more drastic and damaging criticism than on account of some scandalous receiverships. In some cases, no doubt, the criticisms have been unjust; but there are some in which no explanation can mitigate the staggering facts. When large assets are almost entirely exhausted in paying the expenses of a receivership, however honestly it may be done, it constitutes a burlesque on justice. The assets are distributed not to the rightful beneficiaries, but to the distributors themselves. The receivership, ostensibly for the benefit of the creditors, proves to be for the benefit of the receiver or his attorneys and employees. In some glaring cases receiverships have amounted to confiscation of the assets by the receiver. It is true that in some cases great expense is necessary because of complicated interests and a more or less chaotic condition of the affairs involved; and those who attack the court and the receiver may judge ignorantly and recklessly; but, if there is nothing left to distribute when the receiver's bills are paid, it is a travesty of justice, proving the administration dishonest or incompetent, or else that our system of procedure in such cases deprives owners of their property wrongfully, though it may be with due process of law. This should be made impossible, for the good name of our courts as well as for the sake of the true owners of the assets. Every judge may properly ask himself whether the compensation he allows a receiver is more than he would pay for the same services in his private business; and, if so, why?

AMONG THE NEW DECISIONS

Percolating waters.—Some interesting questions as to rights in percolating waters are discussed in the two recent cases of *Charon v. Clark* (Wash.) 17 L.R.A.(N.S.) 647, and *Erickson v. Crookston Waterworks P. & L. Co.* (Minn.) 17 L.R.A.(N.S.) 650, the first

case holding that a grantee of land containing an artesian well, whose conveyance is expressly made subject to the rights of persons who had been granted rights in the water, cannot deprive such persons of their rights, although the well is fed entirely by per-

colation; while, in the second case, the right to enjoin a company organized to furnish water to the inhabitants of a city from pumping water from artesian wells on its premises in such quantities as to reduce the level of the water in the well on the premises of other parties below its normal height is denied. A note to the first case, on the effect of grant upon rights in percolating waters, brings down to date an earlier note on the same subject in 19 L.R.A. 99, while, in a note to the second case, the question of correlative rights in percolating waters is discussed, with a review of the authorities subsequent to a note on this subject in 64 L.R.A. 236.

Married woman as surety.—A review of the authorities in a note in 17 L.R.A. (N.S.) 676, on the right of married women to enter into contracts of guaranty or suretyship, shows that such right is generally denied under statutes which simply permit them to make contracts relating to their separate estates, unless such contracts of suretyship relate thereto. In harmony with these cases, it is held, in the Idaho case of *Bank of Commerce v. Bowers*, accompanying this note, that, under a statute transferring to the wife the management, control, and absolute right of disposition of her separate property, and conferring upon her all the privileges of contracting in relation thereto, and all the rights or privileges necessary to the complete enjoyment and power of disposition thereof, a married woman has no authority to become surety or guarantor for the debts of others, such right and the concurrent obligations thereof not being necessary or essential to the complete enjoyment of her separate estate; but their power to make such contracts is generally upheld under statutes permitting them generally to contract as though unmarried.

Regulation of milk jars.—Requiring milk dealers indelibly to indicate their capacity upon glass jars which contain the milk sold, and imposing a penalty for having in possession, with intent to

use them, any bottle or jar of less capacity than is marked on it, is held, in the recent Illinois case of *Chicago v. Bowman Dairy Co.* 17 L.R.A. (N.S.) 684, to be a valid exercise of the police power. The question of the validity of police regulations requiring the labeling of articles of commerce is discussed in a note in 1 L.R.A. (N.S.) 184.

Taxation of special interests in land.

—The authorities on the question whether the interest of one other than the owner of the soil in mineral *in situ* is an independent subject of taxation are collated in a note in 17 L.R.A. (N.S.) 688, accompanying a recent Kentucky case (*Wolfe County v. Beckett*) holding that the property held under an oil and gas lease vesting in the lessee all the property rights to the oil and gas that may be found in paying quantities on the premises is taxable to the lessee under statutes taxing all real and personal property within the state, and making it the duty of persons owning any oil or gas privileges, by lease or otherwise, to list them for taxation. An analogous question with respect to the taxation of the interest of one other than the owner of the soil in growing trees or timber or their products is discussed in a note in 17 L.R.A. (N.S.) 693, accompanying the Mississippi case of *Board of Supervisors v. Imperial Naval Stores Co.* 47 So. 177, holding that a grant of the right to take turpentine from standing trees for a specified time is not subject to taxation as a separate or special interest in land.

Gas stove as fixtures.—The few cases on the question whether gas stoves are fixtures are collated in a note in 17 L.R.A. (N.S.) 699, accompanying the Massachusetts case of *Hook v. Bolton*, in which it is held that a gas stove and window shades running on rollers, attached by the owner to his dwelling-house, designed for a single family, are not fixtures which will pass with a mortgage of the realty.

Last clear chance.—An almost ideal state of facts for the application of the

doctrine of last clear chance is presented by the recent Connecticut case of *Smith v. Connecticut R. & L. Co.* 17 L.R.A.(N.S.) 707, holding that, although one driving along a street, ahead of a street car which is running so slowly that he has time to cross the track without being struck, is negligent in making the attempt, his act is not the proximate cause of his resulting injury if, upon seeing his design, the motorman, because of his inexperience, becomes confused, releases the brake, and causes the car to increase its speed, so that it strikes the wagon, which it would not do if he used ordinary care. The various aspects of the doctrine of last clear chance have been discussed in the notes in 55 L.R.A. 418, and 7 L.R.A.(N.S.) 137.

Compulsory vaccination.—From a review of the authorities in a note in 17 L.R.A.(N.S.) 709, discussing the power to require vaccination, there appears to be no doubt of the power of the legislature to require vaccination as a condition of admission to public schools, even in the absence of a smallpox epidemic in the community; but, unless such power is clearly conferred, local bodies may not require vaccination in the absence of smallpox or an apprehension of an immediate outbreak thereof; and charter authority to appoint a board of health, and make all regulations necessary for the promotion of health or the suppression of disease, is held, in the Illinois case of *People ex rel. Jenkins v. Board of Education*, which accompanies the note, not to empower a municipality to make vaccination a condition precedent to attendance of the public schools.

Accident insurance.—The question of the effect, in an action upon an accident policy for death by drowning, of provisions in the policy limiting the insurer's liability or denying it altogether where there is no external or visible mark or sign on the body, seems to have been passed upon for the first time in *Lewis v. Brotherhood Accident Co.* (Mass.) 17 L.R.A.(N.S.) 714, holding that drowning, although not ac-

companied by external marks, is covered by a policy containing such a provision as to external marks, where drowning appears in the list of accidents insured against, and a separate provision limits the liability in case of drowning to a certain percentage of the face of the policy in the absence of an eye witness.

Conspiracy to violate Elkins law.—

The conclusion reached in the recent case of *Thomas v. United States* (C. C. A. 8th C.) 17 L.R.A.(N.S.) 720, that a conspiracy to induce a shipper to violate the Elkins law by receiving rebates might be punished by imprisonment under the general statute prescribing such punishment for conspiracy to violate a statute of the United States, notwithstanding that the Elkins act makes the offense of receiving a rebate punishable by fine only, is at variance with that reached by Holt, J., in the circuit court for the southern district of New York, in the case of *United States v. New York C. & H. R. R. Co.* 146 Fed. 298, holding that, since the Elkins act expressly abolished imprisonment as a penalty for any offense committed under the acts to regulate commerce, an indictment would not lie against the traffic managers of a railroad company and the recipients of rebates for a conspiracy to commit such an offense, which is an offense punishable by imprisonment. The Elkins act has, however, been recently amended by striking out the provisions abolishing punishment by imprisonment for offenses under the acts to regulate commerce, and making, in lieu thereof, a provision, as an alternative or additional penalty, for imprisonment for a term not exceeding two years,—the same term fixed by the conspiracy statute.

Exemption from taxation of missionary society.—Reason and authority would seem to support the proposition enunciated in *Carter v. Whitcomb* (N. H.) 17 L.R.A.(N.S.) 733, holding that a local auxiliary of a foreign missionary society, whose funds are devoted to enterprises in foreign coun-

tries, or only a very small portion of which are expended within the state, from which no substantial local benefits of a public nature result, is not within the meaning of a statute exempting from taxation the property of charitable associations devoted exclusively to public charity. The other authorities which have considered this question are reviewed in a note to this case.

Succession tax.—The liability to pay a succession tax in respect of property transferred by one belonging to an exempt or favored class to one not a member of such class, in compromise of a dispute over decedent's estate, seems to have been passed upon by the courts for the first time in the recent Tennessee case of *English v. Crenshaw* (Tenn.) 17 L.R.A.(N.S.) 753, in which it was held that property thus transferred is not subject to tax.

Provocation as reducing homicide to manslaughter.—While the authorities seem agreed, as shown by a note in 17 L.R.A.(N.S.) 795, that the killing or assaulting of a relative is sufficient provocation to reduce the killing of the wrongdoer to manslaughter, provided no previous wrongful intent on his part is shown, there is apparently little authority upon the question whether the killing or assaulting of a friend will constitute sufficient provocation to reduce the homicide to manslaughter, which was the question involved in the Pennsylvania case of *Com. v. Paese*, which accompanies the note. In this case such an assault was held not to reduce the crime of killing the wrongdoer to manslaughter, where, at the time, the assault had ceased, and the wrongdoer was retiring from the combat. The question, however, is apparently not entirely settled, and it would seem that cases of strong attachment and friendship might be shown which would present a much stronger ground for mitigation than the mere status of relationship where little in common exists between the parties.

Refusal of telegraph message.—

There seems to be but little direct authority upon the right to refuse a telegraph messages because of its character, the recent case of *Western U. Teleg. Co. v. Lillard* (Ark.) 17 L.R.A.(N.S.) 836, in which the right to refuse a message on the ground that it was improper was denied, being apparently the second case only in which the right to refuse a message on this ground has been specifically presented for adjudication; but it seems to be the undoubted rule of law, as stated in the note to this case, as gathered from these and some other cases, not strictly in point, that a telegraph company has no right to refuse a message unless it is couched in indecent or libelous language.

Joint liability of receiver for tort.—

The recent Illinois case of *Tandrup v. Sampsell*, 17 L.R.A.(N.S.) 852, sustaining the right to join the receivers of a railroad company who are jointly and severally liable for a personal injury caused by the negligence of themselves and another, with the latter, in an action by the injured person for damages, seems to be a case of first impression on this question.

Tax on dogs.—A tax or license fee imposed upon dogs for the purpose of raising a common fund for repairing or mitigating such losses as may be inflicted by them by wounding or destroying sheep is held, in the recent Kentucky case of *McGlone v. Womack*, 17 L.R.A.(N.S.) 855, and by the other authorities cited in a note thereto, to be a police measure, and not to violate the constitutional requirement that taxes shall be imposed only for public purposes.

Bar of dower rights.—The few decisions upon the question of the power to bar dower by antenuptial agreement, sufficient in equity, but not conforming to any of the statutory methods of barring dower, which are reviewed in a note in 17 L.R.A.(N.S.) 866, appear to be wholly in harmony with the decision in the Nebraska case of *Rieger v. Schaible*, which accompanies the note,

that a statute providing that jointure shall be a bar to dower does not ordinarily deprive the intended wife of her power to bar her dower by any other form of antenuptial contract.

Mechanics' liens on property of public service corporations.—A statute providing for the enforcement of mechanics' liens against the property of public service corporations, not by writ of *levari facias*, as in case of liens against other property, but by special *feri facias*, which seizes the property as a whole, so as not to stop the operations of the corporation and defeat its object, is held, in the recent Pennsylvania case of *Vulcanite Paving Co. v. Philadelphia Rapid Transit Co.* 17 L.R.A.(N.S.) 884, to be special legislation and invalid. As stated in a note to the case, however, the statutes of many states, the constitutionality of which has apparently been assumed, grant to laborers and mechanics a lien upon property of a public service corporation as an entity, although the labor or materials are bestowed only upon a particular structure or portion of its property.

Statutory provision for attorneys' fees.—An examination of the decisions on this question, reviewed in a note in 17 L.R.A.(N.S.) 909, appended to the California case of *Builders' Supply Co. v. O'Connor*, holding unconstitutional a statute allowing an attorney's fee in mechanics' lien cases, which is not allowed to other classes of litigants, discloses the fact that the question is somewhat confused. Much of this confusion, however, may be ascribed to attempts upon the part of other courts to follow the apparent changes of position of the United States Supreme Court on the subject.

Recovery for fright.—Another phase of the much-debated question of the right to recover for physical injuries resulting from fright caused by negligence, which is the subject of a note in 3 L.R.A.(N.S.) 49, is presented by the recent Maryland case of *Philadelphia, B. & W. R. Co. v. Mitchell*, 17

L.R.A.(N.S.) 974, holding that the rupture of an artery, due to a muscular contraction in attempting to avoid injury from an article which falls upon one's umbrella, may be the basis of a recovery against the one responsible for the fall. This case is distinguishable from the other cases on the subject in that here the injury resulted immediately from the involuntary act of the plaintiff in throwing herself back to escape from impending danger, and thus twisting her body in such a way as to rupture an artery, and not from the effect of the impending danger on her mind and nervous system; but the case was argued and decided entirely on the theory that the injury was caused by fright or shock.

Compulsory treatment of inebriates.—The validity of statutes providing for the commitment of inebriates without their consent to a public or private institution is the subject of a note in 17 L.R.A.(N.S.) 984, accompanying the Minnesota case of *Leavitt v. Morris*, sustaining the validity of a statute providing for the establishment of a hospital farm for inebriates, the cost of the maintenance of which should be paid from a fund to be provided by a tax of 2 per cent, to be levied upon all license fees for the sale of intoxicating liquors under the laws of the state.

Power to license sale of liquor.—It is somewhat remarkable that, while the question as to the power of the legislature to permit sales of intoxicating liquors seems never to have been squarely passed upon until the decision in *Sopher v. State*, 14 L.R.A.(N.S.) 172, it has now been raised for the third time in the case of *Re Phillips* (Neb.) 17 L.R.A.(N.S.) 1001, in which it is held that, where the sole objection urged against the character of the applicant for a license to sell liquors was that no man of respectable character would apply for a license to retail intoxicating liquors, and the only evidence presented to the city council upon that point was the testimony of a witness who stated, under oath, that

the applicant was a man of good reputation and respectable character and standing, he is entitled to a license.

Disclosure of evidence by grand juror.—An unusual question is raised in the case of *Atwell v. United States* (C. C. A. 4th C.) 17 L.R.A.(N.S.) 1049, as to whether a grand juror is guilty of contempt for violating his oath to keep the counsel of the United States, by disclosing the evidence on which an indictment was founded after publication of the indictment has been made, the accused is in custody, and the grand jury has been finally discharged. In this case the juror was held not guilty of contempt; but, in the only other case in which the question seems to have been considered, which is cited in a note to the *Atwell* Case, the juror was held guilty of contempt, where the disclosures were made while the jury was still in session, and concerned matters still pending.

Locating cemetery near property.—The question whether the location of a cemetery near property is a "damaging" of the property within the constitutional provision prohibiting the taking or damaging of property for public use without just compensation seems to have been raised for the first time in the recent Virginia case of *Lambert v. Norfolk*, 17 L.R.A.(N.S.) 1061, in which compensation for loss through diminution in the value of property for residence purposes because of the location of a cemetery near it is denied.

Intoxication as ground for rescinding contract.—A very clear distinction exists between relief in equity and relief at law from contracts on the ground of intoxication, although this distinction has become so confused as to be well-nigh obliterated. The general subject of intoxication as a defense to contracts, or as affecting the validity of contracts, is exhaustively considered in notes in 54 L.R.A. 440, and 2 L.R.A. (N.S.) 666, while the right to affirmative relief in equity from a contract upon the ground that it was procured from complainant while intoxicated is

the subject of a note in 17 L.R.A. (N.S.) 1066, accompanying the recent California case of *Swan v. Talbot*, holding that equity will set aside a sale of property obtained from a person when incapacitated by intoxication, where the consideration was grossly inadequate.

Estates tail.—The question whether the phrase "personal heirs" or "personal and lawful heirs," used in a devise, may be taken as having been used as words of procreation, so as to create an estate tail in a devisee, seems to have been passed upon by the courts for the first time in the case of *Webbe v. Webbe* (Ill.) 17 L.R.A.(N.S.) 1079, in which such words are held not equivalent to "heirs of the body," so as to create an estate tail.

Fraudulent marking of goods.—Although there are many cases dealing with the question whether a particular sale was void as coming within the prohibition of statutes regulating the sale of certain commodities, as well as many cases involving the question whether, and in what circumstances, a contract of sale, valid where made, may be enforced in another state where the sale of such goods is prohibited by law, the case of *Lóveland v. Dinnan* (Conn.) 17 L.R.A.(N.S.) 1119, holding that the fact that goods bought in another state for resale are fraudulently marked as to quality, so as to make them unsalable under the statute of the state where the order was given, does not authorize the purchaser to rescind the sale, and return the goods to the seller, if they complied with the order as given, although the unauthorized marking of goods so that they cannot be sold at the residence of the purchaser will justify him in rescinding the sale and returning the goods, seems to be the first one in which, notwithstanding the validity of the sale so far as the local statute was concerned, the question was raised whether a buyer of goods has the right to rescind merely because the goods are so marked or packed that they cannot be resold conformably to the local law, and inde-

pendently of any question whether the maintenance of an action for the purchase price would be contrary to the public policy of the forum.

Extension of time on note by administrator.—Though cases may be found dealing with the rights of a surety of a debt due to an estate, the time of payment of which had been extended by an administrator, *Daviess County Bank & T. Co. v. Wright* (Ky.) 17 L.R.A.(N.S.) 1122, seems to be the first case presenting the question whether an administrator may enter into a binding contract for the extension of a debt due by the estate as the principal, so as to release a surety. In this case the administrator was held to have no such authority, but the soundness of this decision may be seriously questioned.

Sunday theaters.—The question whether keeping a theater open on Sunday is a violation of the Sunday laws is the subject of a note in 17 L.R.A.(N.S.) 1156, appended to the Kansas case of *Topeka v. Crawford*, holding that to keep open, manage, and superintend a theater, and sell tickets therein, on Sunday, is labor, within the meaning of an ordinance making Sunday labor a misdemeanor.

Theft from guest in lodging house.—It is doubtful if many courts, either in this country or in England, would go to the extent that the Minnesota court has gone in the recent case of *Nelson v. Johnson*, 17 L.R.A.(N.S.) 1259, in enforcing the strict liability of an innkeeper for loss of property stolen from a guest against one whose sole business consists in furnishing suitable lodging to the general public, indiscriminately, for hire, the proprietor not supplying the guests with food, and no facilities for supplying them being maintained at or in connection with the house. While the courts are not entirely in accord, a careful examination of the authorities reviewed in a note to this case seems to indicate that the furnishing of food as well as lodging is still an essential characteristic of an inn.

Landlord shutting off heat.—The few cases which have considered the right of a landlord to render a tenement uninhabitable under provisions of a lease reserving right of re-entry for condition broken are collated in a note in 17 L.R.A.(N.S.) 672, accompanying the recent Colorado case of *Howe v. Frith*, in which it is held that a landlord is not liable for injuries to a tenant by shutting off the heat from the tenement after the tenant is in arrears for rent, where the lease provides for forfeiture in case of nonpayment of rent, and for re-entry by the use of such force as is necessary, in which event no action shall be brought by the tenant.

Exchange of commercial paper.—The question of the effect of an exchange of commercial paper to constitute one a holder in due course, for value, is the subject of a note in 17 L.R.A.(N.S.) 747, which is appended to the Oregon case of *Matlock v. Scheuerman*, holding that giving his own check in exchange for that of a third person constitutes one a holder of it for value, and that such position is not lost by the fact that payment of the stranger's check is refused before his own has been negotiated or presented for payment.

Assault by employee on passenger.—That the duty of a carrier to protect its passengers from assault by its servants may apply if the person assaulted, at the time of the assault, sustained the relation of passenger to the carrier, even though the assault was committed outside the car or train, is shown by a review of the cases on this subject in a note in 17 L.R.A.(N.S.) 763. In the case accompanying this note—*Blomness v. Puget Sound Electric R. Co.* (Wash.)—it is held that a passenger on a street car, who, being entitled to a transfer to another line, which is not given him before the transfer point is reached, continues to demand it after he has reached the ground at the transfer point, in obedience to the conductor's command to get off the car and out of the way, has not lost his rights as a passenger, so as to absolve the company from liability for an assault

upon him by the conductor, growing out of the altercation. But, in the recent New York case of *Zeccardi v. Yonkers R. Co.* 17 L.R.A.(N.S.) 770, it is held that a street car company is not liable for an assault by its motor-man upon a passenger who has left the car to stop a fight between the conductor and a person who has been ejected from the car.

Duty to provide sufficient help.—

The rule of law which enjoins upon a master the duty to provide his servants with reasonably safe instrumentalities embraces the duty of providing proper and sufficient help and assistance, so that they may perform the work with reasonable safety, as shown by a review of the authorities in a note in 17 L.R.A.(N.S.) 773, accompanying the recent Massachusetts case of *Di Bari v. J. W. Bishop Co.*, holding a master liable for injury to his employee due to his negligence in failing to furnish a suitable number of servants to do the work required of them.

Fire set out by independent contractor.—An examination of the authorities as to the liability of an employer for acts of an independent contractor in setting out a fire, which are reviewed in a note in 17 L.R.A.(N.S.) 788, shows that no absolute rule by which the liability of the employer in such cases may be determined can be derived from the decisions, which turn on a variety of considerations. But, in order to hold the master liable, the injury must be a natural and probable consequence of the performance of the work at the time and in the manner agreed upon. This note is accompanied by the Kansas case of *St. Louis & S. F. R. Co. v. Madden*, holding that work done by one who contracts with a railroad company to burn a fire guard along its right of way is performed by the company in the operation of its road, and that the company cannot, by delegating the work to an independent contractor, avoid liability for injury caused to property when the fire escapes control through the negligence of the contractor; but it is also held

that the mere direction of a foreman of a company to the contractor engaged to burn a fire guard, to begin the work on a certain day, will not render the company liable for damages resulting, due to the fact that, on the day specified, there was a strong wind blowing which caused the fire to escape control.

Discovery of will after payment to administrator.—

As to whether the payment to an administrator of a debt due his decedent will constitute a discharge thereof as against an executor of a subsequently discovered and probated will, which is the subject of a note in 17 L.R.A.(N.S.) 878, the rule apparently is that one who deals in good faith with an administrator whose letters, so far as he is able to discover, are valid, is protected even though such letters are subsequently revoked by reason of an existing testament. In harmony with this rule, it is held, in the Pennsylvania case of *Zeigler v. Storey*, which accompanies the note, that a bona fide payment of a mortgage to an administrator of the mortgagee, to whom letters had been regularly issued by an authority having jurisdiction to issue them, is a legal discharge of the indebtedness, and that a second payment cannot be enforced by an executor subsequently appointed in another county, although the will had been discovered and presented for probate prior to such payment.

Grading license tax according to capital employed.—

That the amount of an occupation tax or a license fee may be graded by classes according to the value of the property employed in the business, although the rates are not uniform among the several classes, is shown by a review of the authorities in a note in 17 L.R.A.(N.S.) 898, accompanying the Utah case of *Salt Lake City v. Christensen Co.*, sustaining the validity of a license tax based on the amount of capital stock employed.

Way of necessity.—That no implication of a grant of a right of way can arise from mere considerations of convenience, but that it must be sup-

ported by necessity, is a proposition upon which the authorities are unanimous, as shown by a note in 17 L.R.A. (N.S.) 1018, accompanying the California case of *Corea v. Higuera*, which holds that the absence of a constructed track for teams to a road on which the grant of land is bounded is not sufficient to give the grantee a way of necessity over remaining land of the grantor.

Stable as nuisance.—A review of the authorities on the question whether a stable for horses is a nuisance, in a note in 17 L.R.A. (N.S.) 1025, shows that no case has been found holding a stable a nuisance *per se*, but that, whether any particular stable is or is not a nuisance is essentially a question of fact, in the determination of which the stable's location, its construction, and the manner in which it is conducted are elements to be considered. This note is accompanied by the Illinois case of *Oehler v. Levy*, holding that maintaining a stable in a state of uncleanness, and permitting the horses to be brought in in the night, and the drivers to use loud and profane language, so that the sleep of the occupants of neighboring buildings is disturbed and their health impaired, is a nuisance.

Damage to property by smoke, noise, dust, etc.—An examination of the authorities as to the right, under a constitutional provision against "damaging" private property for public use without compensation, to compensation for consequential damages to property, no part of which is taken, from smoke, noise, dust, etc., incident to the ordinary operation of a railroad, which are collated in a note in 17 L.R.A. (N.S.) 1053, shows that the consensus of opinion among the best-considered cases seems to be that the word "damaged" in such a provision does not give a right of action in a case where the injuries would have been, in the absence of such word, *damnum absque injuria* in an action against a natural person or private corporation, but only makes a railroad company liable to the same extent as an individual would have

been at common law, and that therefore the owner of property none of which is taken, and who is merely annoyed and inconvenienced, in common with the general public, by smoke, soot, cinders, noise, vibration, etc., incident to the prudent operation of a railroad, cannot recover compensation therefor, although the property may be lessened in market value, and he may suffer greater in degree than those around him. But, in the case accompanying this note,—*Tidewater R. Co. v. Shartz* (Va.),—it is held that damages for such consequential injuries are allowed.

Letter as will.—As shown by a review of the authorities in 15 L.R.A. 635, and a supplementary note in 17 L.R.A. (N.S.) 1126, a letter is held valid as a will if it complies with the requirements ordinarily necessary to the execution of such an instrument. In harmony with the other authorities, it is held, in the Kentucky case of *Milan v. Stanley*, accompanying the latter note, that a letter written by a man sentenced to death, three days before the execution, to his daughters, stating that he made two of them a deed to the house and lot, and that he did not want them to have any trouble over it, and did so because of their attention to their mother, may be probated as a will sufficient to pass title to the property.

Imprisonment for failure to pay alimony.—On the question whether imprisonment for failure to pay alimony is a violation of the constitutional provision against imprisonment for debt, the majority of the cases, as shown by a note in 34 L.R.A. 634, and a supplementary note in 17 L.R.A. (N.S.) 1140, are in favor of the theory that alimony is not a debt within the meaning of such a constitutional provision, the commitment being regarded as an imprisonment for the wilful contempt of the court's order, in the nature of a punishment therefor, rather than as a means of enforcing payment of a debt. This theory is followed in the Texas case of *Ex parte Davis*, which accompanies the note in 17 L.R.A. (N.S.) 1140.

Stipulation that policy be delivered to insured while in good health.—The numerous authorities on the effect of a stipulation in an application or policy of life insurance, that it shall not become binding unless delivered to assured while in good health, are reviewed in an extensive note in 17 L.R.A.(N.S.) 1144, accompanying the recent Iowa case of *Roe v. National L. Ins. Asso.*, which holds that an insurance company is bound by the act of its medical examiner in reporting applicant to be a fit subject for insurance, unless he was purposely mislead by the applicant, and inveigled into recommending him as a fit subject, when, but for such deception, he would not have done so.

Card-game paraphernalia as gaming device.—While the authorities on the question whether a card game paraphernalia is a gaming device within the meaning of a statute against gaming are not all agreed, as shown by a review of the authorities in 17 L.R.A.(N.S.) 1210, yet it may be said that the weight of authority inclines decidedly to the view that a pack of cards and the table at which the game is played are "gaming devices," when used for gambling purposes; but, in the Texas case of *Hanks v. State*, to which the note is appended, it is held that playing cards for money, on a blanket, in a shed, as an attachment of a dance, does not warrant conviction under a statute providing that any person who shall, for the purpose of gaming, exhibit any gaming table, bank, or device, shall be guilty of felony.

What is a "credit" subject to taxation.—On the question as to whether the amount due under a contract for the purchase of land, not evidenced by note or purchase-money mortgage, is a credit subject to taxation, all the courts seem to be at one in holding that the amount due under an enforceable contract for the sale of land is a credit, and, as such, subject to taxation in the hands of the vendor, although the contract provides for forfeiture upon default of the purchaser. The decisions on this subject are reviewed in a note in 17 L.R.A.(N.S.) 1220, accompanying the

Iowa case of *Re Boyd*, in which the general rule is followed.

Prize and capture.—An interesting question is discussed in the recent decision of the Supreme Court of the United States in the case of *Juragua Iron Co. v. United States*, U. S. Adv. Ops. p. 385, in which it is held that an American corporation doing business in Cuba was, during the war with Spain, an enemy to the United States with respect to its property found and then used in Cuba, and that such property could be regarded as enemy's property, liable to be seized and confiscated by the United States in the progress of the war.

Shutting off gas to compel payment of an arrearage.—The question of the right of a public-service corporation to discontinue service to the representative, such as an assignee or receiver, of a delinquent customer, seems to have been considered for the first time in the recent Massachusetts case of *Cox v. Malden & M. Gaslight Co.* 17 L.R.A.(N.S.) 1235, holding that assignees for creditors are not identified with the assignor so as to entitle a corporation which had been supplying gas to the assignor to refuse to supply it to the assignees, who desire temporarily to continue the business, until the amount due by the assignor is paid, under a statute giving it permission to shut off gas from the premises of one who refuses to pay the amount due therefor, but forbids it to do so merely because the bill remains unpaid by a previous occupant of the premises.

Compelling production of testimony.—In a recent decision by the Supreme Court of the United States, *Hammond Packing Co. v. Arkansas*, U. S. Adv. Ops. p. 370,—it is held that an order directing a foreign corporation sued for violating the Arkansas anti-trust act to produce as witnesses before a commission certain named officers, agents, directors, and employees, and to produce any books, papers, or documents in the possession or under the control of such witnesses, relating to the merits of the cause or any defense therein, does not

amount to an unreasonable search and seizure; and the fact that the order seeks to elicit proof not only as to the liability of the corporation, but also evidence in its possession relevant to its defense, is held not to amount to a denial of due process of law, nor does such remedy deny the equal protection of the laws because it applies only to books and papers outside the state, or because, properly construed, it may be confined to corporations and joint stock associations, and not extend to individuals.

Carrying passenger beyond destination.—The many authorities on the

question of measure of damages for carrying passenger beyond destination are reviewed in a note in 17 L.R.A. (N.S.) 1226, accompanying the Kansas case of *Dalton v. Kansas City F. S. & M. R. Co.*, in which it is held that, where a passenger is negligently carried beyond his destination, he is entitled, in the absence of other inculpatory circumstances, to recover as damages therefor a reasonable sum for loss of time, necessary expenses incurred, and, in addition thereto, fair compensation for inconvenience experienced, if any, on account of such action of the railroad company.

INTERNATIONAL AFFAIRS

One of the pleasant features of the entrance of President Taft on the duties of his office was the receipt of cordial congratulations from the Mikado, and the President's reply, expressing his pleasure thereon, and his grateful remembrance of boundless hospitality extended to him while he was in Japan, with the assurance of his earnest endeavor to maintain the present satisfactory relations between the two countries.

The British Empire has had an accession of 15,000 square miles by the treaty signed March 10, 1909, at Bangkok, Siam, ceding to Great Britain the states of Kalantan, Tringan, and Kedah. By the treaty British capital to the extent of \$20,000,000 is to be furnished for constructing railroads south from Bangkok, and it also provides for a gradual abolition of British extraterritorial rights in Siam.

A tripartite treaty between the United States, Colombia, and Panama, which had previously been signed by Secretary of State Root and the Colombian and Panaman ministers, was ratified by the Panaman Congress January 27th, and by the American Senate on February 24th. The Congress of Colombia at the same time had the treaty before it for ratification with full approval of the Colombian government.

The Danish Rigsdag recently approved treaties of arbitration with the United States, Norway, and Sweden.

The third annual meeting of the American Society of International Law is to be held in Washington, April 23d and 24th, at which it is said that international arbitral decisions will be given a careful examination to ascertain how far, judged by concrete cases, nations have submitted, and are therefore presumably willing to submit, international controversies to judicial settlement. The nature and definition of political offense in international extradition and the development of international law by judicial decisions in this country, as well as the constitution and powers which an international court of arbitral justice should possess, will be discussed.

The International Opium Commission met in February at Shanghai, China. Reports from several nations have been presented. Whatever disappointments there may be with respect to the work of this conference, the very fact that international interest has been so aroused as to undertake to deal with the problem is greatly encouraging.

The North American Conservation

Conference met, on the invitation of President Roosevelt, on February 18th, at Washington. After considering questions of large moment, including water supply, forest preservation, land, agriculture, etc., a declaration of principles was adopted which was transmitted by the President to the Senate and House of Representatives. This included a recommendation of the adoption of concurrent measures for conserving the material foundations of the welfare of all the nations concerned. The conference declared its conviction that the movement was of such general importance that it should become world-wide in its scope, and suggested to the President that all nations should be invited to join together on the subject of world resources and their inventory, conservation, and wise utilization. It is expected that a conference at The Hague September next will be attended by representatives of all the nations that were represented at The Hague peace conference.

Plans for a national peace congress to be held in Chicago, May 3 and May 5, 1909, have been launched by the Chicago Association of Commerce, intending to make this the second, of which the first was held in New York in April, 1907. The purpose is to foster sentiment for international arbitration and universal peace, and to consider the subjects to be submitted at the third Hague conference in 1915. Rabbi E. G. Hirsch says the aim of the conference is to spread the gospel of soft speech, and that, although such gatherings may be "gabfests," they make for good.

The decoration of the Legion of Honor has been conferred by the French government on Major General Leonard Wood, commanding the Department of the East at New York, in recognition of the personal interest shown by him in the grand maneuvers of the French army last summer when visiting France on his way home from the Philippines. The permission of Congress is necessary to enable him to accept the decoration.

The grand cross of the Legion of Honor has been conferred by Jules Cambon, the French ambassador to Germany, upon Herr von Schoen, the German foreign minister, as an indication of the satisfaction of France over the Franco-German agreement respecting Morocco. At the same time Prince von Radolin, the German ambassador at Paris, was decorated, and these events are regarded as a token of improved relations between the two countries.

Señor Don Francesco L. de la Barra, the new Mexican ambassador to the United States, was formally received at the White House February 27th, and presented greetings from his nation, to which the President replied with cordial expressions of good wishes and friendly esteem for Mexico and the Mexican people.

Henry Vignaud, secretary of the American embassy at Paris, has resigned, to take effect on March 31st, on account of his advanced age, and his desire to leave the path of promotion open for younger men. He is seventy-nine years old, and the oldest member of the American diplomatic corps abroad, having served thirty-four years. A group of prominent Americans have raised a fund of \$20,000 to provide for him. In the Franco-Haitian controversy, some years ago, the French government named him as arbitrator.

Dr. P. F. Roh, vice consul of Germany in Chicago, is said to have been transferred to New Orleans, to succeed Baron Van Nordenflycht, who has been sent to Rio de Janeiro.

Charles Henrotin, Turkish consul general in Chicago, has received from the Turkish government the order of the Commandery of Osmanle. He has represented Turkey here for thirty-three years, and for thirteen years has been consul general.

President Jacob Gould Schurman has been appointed special representative

of Cornell University to attend the celebration next summer of the 350th anniversary of the founding of the University of Geneva and the 500th anniversary of the founding of the University of Leipzig.

A school for Chinese children is being provided by the Chinese govern-

ment in San Francisco. It is said that the pupils will be encouraged to learn the English language and the customs of the United States; but, from the report, it seems that instruction in the language and history of China is the main purpose of the school, though the report leaves this matter somewhat uncertain.

NOTES FROM OTHER NATIONS

An income tax bill has been passed by the French Chamber of Deputies by a very large majority, after many years' agitation. Strong opposition to it in the Senate is prophesied. Among its provisions is one for taxation of the incomes of foreign residents at the assumed valuation of seven times the rent they pay.

President Gomez, of Cuba, has received large praise for his liberality in the recognition of the Conservative party in the bestowal of offices. About 30 per cent of them have been given to the opposition party, which cast a very small minority of the votes. The overwhelming success of the Liberal party in election is spoken of as a favorable augury for the stability of the new administration. The members of the Cuban Congress have been severely censured for laxness in attending to their duties, so much so that the lack of a quorum in the days of President Palma led to carrying on too much of the government business by presidential decree, and the resulting charge of usurpation. It is to be hoped that, taught by experience, Cuba may this time establish a stable government. But at this moment an attempt at in-

urrection has begun, which is not reassuring; but it will doubtless prove of small importance.

A violent and very disastrous earthquake in Persia has followed very closely on the calamitous earthquake in Italy. The press reported that the loss of life would reach from 5,000 to 6,000 persons. It took place on January 23d, and the scientific observatories throughout the world recorded the fact, but were unable to locate the place where the earthquake had occurred. It was more than three weeks before this was discovered.

Universal suffrage is provided for by a bill recently passed by both chambers of the Swedish Diet. The minimum age of a voter is fixed at twenty-four years.

Women voters and women candidates for the first time appeared in the municipal election of Copenhagen on March 12th. All women over twenty-five years of age, and married women whose husbands are taxpayers, are voters. The report says that the women displayed excellent organization and polled a heavy vote.

JUDGES AND LAWYERS

Lawyers fill two thirds of the positions in President Taft's Cabinet; but this is not so exceptional in this country as the representation of lawyers in the present English Ministry, which has been named "The Ministry

of all the Lawyers." But, with Judge Taft as President, Philander C. Knox as Secretary of State, Franklin MacVeagh (who was a lawyer in his earlier years) as Secretary of the Treasury, Jacob M. Dickinson as Secretary of

War, George W. Wickersham as Attorney General, Richard A. Ballinger as Secretary of the Interior, and Charles Nagel as Secretary of Commerce and Labor, the legal profession holds a large place in the present administration.

Secretary Knox was assistant United States district attorney for the western district of Pennsylvania at the age of twenty-four years. He was counsel for the Carnegie Steel Company during the homestead riots in 1892. He represented the government in the Northern Securities case, the case against the Beef Trust, and in the Panama Canal purchase. Secretary Dickinson was counsel of the United States in the Alaska boundary case before the Arbitration Tribunal in London in 1903, and Assistant Attorney General under President Cleveland. He has been general counsel for the Illinois Central Railroad Company. Attorney General Wickersham is regarded as an expert in railroad law, and is a law partner of the President's brother, Henry W. Taft. He has been counsel for such corporations as the Interborough Railroad Company, of New York city, and was attorney for the railroads in the Chicago Traction case. Secretary Ballinger has been judge of the superior court in the state of Washington, mayor of Seattle, commissioner of the general land office, and has made a specialty of admiralty and maritime law. It is said that his father studied law in the office of Abraham Lincoln. He is the author of Ballinger on Community Property and Ballinger's Annotated Codes and Statutes of Washington. Secretary Nagel has been a member of the Missouri state legislature, president of the city council of St. Louis, and, with an extended law practice, has given much attention to educational matters. He is one of the professors of the St. Louis Law School.

Philemon Harry Clugston, formerly law partner of Governor Thomas R. Marshall, of Indiana, died recently in Scottsdale, Arizona, at the age of forty-four, from tuberculosis.

Charles Ackerman, a well-known member of the bar of San Francisco, died recently in the 59th year of his age. He had been associated with many of the most important law cases in the state.

Charles M. Allen, of Rochester, New York, died of apoplexy March 8, 1909. He had been a member of the bar of that city for forty years. He was a graduate of Rochester University, class of 1867, and of the law department of the University of Pennsylvania in 1869.

Homer W. Ayers, died in Chicago, Illinois, recently at the age of seventy-three. He practised law in Urbana, Illinois, when Abraham Lincoln was at the bar, and they were warm friends. Later he practised fifteen years in Chicago.

Henry P. Blair, first assistant corporation counsel of Washington, District of Columbia, presented his resignation to the District commissioners some weeks since, and his place was filled by promotion of F. H. Stephens, who was the second assistant, and William H. White was chosen to fill Mr. Stephens's place. Mr. Blair resigned because he desired to engage in private practice.

Joshua W. Caldwell, of Knoxville, Tennessee, died January 18, 1909, at the age of fifty-three. He was one of the leading attorneys of the state, and the author of various publications, including "The Bench and Bar of Tennessee." He was also a noted after-dinner speaker.

William Carroll, a well-known lawyer of Kentucky, died at New Castle March 2, 1909, at the age of seventy-two. He had practised law for thirty years. He was for twelve years circuit judge. At one time he was county attorney of Oldham county.

Charles Chesley, for many years solicitor of internal revenue, died recently in Washington, District of Columbia,

and was buried at Wakefield, New Hampshire, where he was born April 12, 1827.

Alice O. Curran, of Macomb, Illinois, was among the successful candidates for admission to the bar of Illinois at Ottawa on February 26th. Over fifty men were admitted at the same time.

Some of the poems of the late Judge Francis M. Finch, of the New York court of appeals, such as "The Blue and the Gray," have given delight to great numbers of people, but his poems have never been published in book form until now. Judge Finch preferred to be known as a lawyer and judge, rather than as a poet. But, since his death, his family has allowed the publisher Holt to print a selection of his poems made by some of his Cornell colleagues, among them the late E. W. Huffcut and Professor E. H. Woodruff. The book is entitled "The Blue and the Gray and Other Verses," and includes a sketch of the author by Andrew D. White.

John W. Fisher, formerly prominent as a lawyer and politician of Buffalo, New York, was recently sentenced to prison on a plea of guilty to a charge of grand larceny. The offense was committed against a town by selling a note which the town board had ordered canceled, and keeping the proceeds.

William L. Gross, of Springfield, Illinois, died there January 18, 1909, at the age of sixty-eight. He had been circuit judge and member of the Illinois house of representatives. He was also secretary and treasurer of the Illinois State Bar Association for eleven years.

C. T. Hanson died at Pawhuska, Oklahoma, a few days since, at the age of fifty-three years. Until a few years ago he lived and practised law in Louisville, Kentucky.

William Wirt Howe died at New Orleans a few days since at the age of seventy-six. He was a native of Can-

andaigua, New York, educated at Hamilton College, became major in the Union Army, and afterwards settled in New Orleans. He was twice president of the American Bar Association, and the author of several treatises on civil law. He was formerly general counsel for the Texas & Pacific Railway and the American Sugar Refinery Company.

Thomas Pearson, of Chicago, who was scheduled for an address at Mound City on the occasion of the Lincoln Centenary, did not deliver it because the exercises were prevented by small-pox, but his address was delivered before the Bethesda Standard Literary Society of Chicago. It was a dignified and eloquent address with no personal references to himself, though to him the emancipator was of more than historical interest, as he was himself once sold as a slave, and, as he has said in a personal letter, his way from the auction block to his present position as a member of the bar in the city of Chicago has been a long, hard, and rocky road.

Simeon Stevens Johnson, of Jeffersonville, Indiana, died not long since in the 73d year of his age. He was a cousin of Chester A. Arthur. For fifty years he had practised law, and had been a member of the Clark county, Indiana, bar.

Joseph B. Kealing recently resigned his position as United States attorney at Indianapolis rather than assist in the removal of Delevan Smith to Washington to be tried for criminal libel, contending that a man should be prosecuted at his own home, if at all.

S. J. Lovelace, of Scottsville, Kentucky, died there February 18, 1909, at the age of fifty-eight years. He was circuit clerk twelve years and county judge four years.

James J. McEvelly, a well-known attorney in mining cases, died at his home in New York city a short time since at the age of thirty-nine.

Blewett Lee is announced as general attorney of the Illinois Central Railroad Company for the territory south of the Ohio river and in Indiana, and William S. Kenyon as general attorney for the territory north of it. These changes result from the appointment of J. M. Dickinson, general attorney of the road, to be Secretary of War.

John Moore, the oldest lawyer in San José, California, and for many years

a notable figure at the bar in that locality, died recently at his home.

Charles E. Parker died at his home in Owego, New York, March 2, 1909, in the 73d year of his age. He was a schoolmate of John D. and William Rockefeller. He had served as county judge and surrogate, and then as justice of the supreme court. In 1895 he became presiding justice of the appellate division, third department.

LAW SCHOOLS

The lectures of William D. Guthrie at Columbia University Law School, New York city, on the Judicial Power under the Constitution of the United States, which are being delivered Wednesday afternoons in March and April, are for April as follows: April 7, on the Eleventh Amendment; April 14, on Cases Affecting Ambassadors, Other Public Ministers, and Consuls, as well as Admiralty and Maritime Cases, and the Law of Nations; April 21, Controversies between Citizens of Different States and between Citizens and Aliens.

A new building for the law department of the University of California has been started at Berkeley, to be known as the Boalt Memorial Hall, for which Mrs.

Boalt gave \$100,000, and the lawyers of the state subscribed \$50,000 more. The building will have three large lecture rooms, a library of 1,000 volumes, seven studies for the members of the faculty, a debating or moot court room for the students, a general club room, and five small rooms to be used by the students' organizations connected with the law department. The purpose is to make this hall of law the center of the life of the law students at the University. \$25,000 has been given by Mrs. Jane K. Sather for the endowment of the law library.

The class of 1908 of the Georgetown University Law School gave a banquet at the National Hotel in Washington on Saturday night, February 20, 1909, with covers laid for fifty.

NEW LAW BOOKS

"New York Civil Procedure Reports." Vol. 39. Notes by J. S. Rumsey. Can-vas, \$4.

"The Lawyer's Scrap Book." A monthly magazine containing material of permanent interest and value to every lawyer and student. Edited by M. E. Peloubet. Vol. 1, No. 1, April 1909. \$4 per year.

"The Interstate Commerce Act." By Henry S. Drinker, Jr. 2 vols. Buckram, \$10.

"Jurisdiction of the Court of Appeals."

(New York) By Benjamin N. Cardozo. 2d ed. Buckram, \$3.

Church's "Probate Law and Practice." (For the western states.) 2 vols. \$12.

Kerr's "Annotated Pocket Codes of California." 5 vols. \$25.

Kerr's "Annotated Pocket Code of Civil Procedure." (California.) \$5.50.

Kerr's "Annotated Pocket Civil Code." (California.) \$5.50.

Kerr's "Annotated Pocket Penal Code." (California.) \$5.50.

Kerr's "Annotated Pocket Political Code." (California.) \$5.50.

Kerr's "Annotated Pocket General Laws." (California.) \$5.50.

Joyce on "Injunctions." 3 vols. Buckram, \$16.50. After July 1, 1909, \$18.

"Supplemental Digest of the Maryland Reports." By W. T. Brantly. Vols. 89-105 Md. inclusive. Buckram, \$6.

RECENT ARTICLES IN LAW JOURNALS AND REVIEWS

"Laissez Faire in the United States. Part II."—68 Central Law Journal, 118.

"The Industrial Guarantee of the State."—70 Albany Law Journal, 366.

"The Present State of International Law."—70 Albany Law Journal, 368.

"The Liability of a County for Torts."—70 Albany Law Journal, 371.

"Federal Incorporation of Railroads."—70 Albany Law Journal, 372.

"The State's Duty to the Trusts."—70 Albany Law Journal, 376.

"The Rhodian Law."—18 Yale Law Journal, 223.

"Our Controversy with Venezuela."—18 Yale Law Journal, 243.

"Corporations and the Nation."—18 Yale Law Journal, 263.

"The Decay of Personal Rights and Guarantees."—18 Yale Law Journal, 252.

"The Prerogative Right of Revoking Treaty Privileges to Alien-Subjects."—29 Canadian Law Times, 105.

"Uniformity of State Legislation."—29 Canadian Law Times, 130.

"The Place of the Bar in the Public Life of the Dominion."—29 Canadian Law Times, 152.

"Law Reform."—29 Canadian Law Times, 157.

"Legal Restraints on Liberty of Divorce in the Mussulman Jurisprudence."—41 Chicago Legal News, 233.

"The Lawyer's Livelihood."—41 Chicago Legal News, 229, 236.

"The Repair of Approaches to Railway Bridges and Crossings."—73 Justice of the Peace, 74.

"Locomotives on Highways; Limits of Weight and Size."—73 Justice of the Peace, 62, 75.

"The Berea College Decision and the Segregation of the Colored Races."—68 Central Law Journal, 137.

"The Depositors' Guaranty Law of Oklahoma."—17 Journal of Political Economy, 65.

"Land Tenure and Land Monopoly in New Zealand. I."—17 Journal of Political Economy, 82.

"The Moral Responsibility of Corporations."—45 Canada Law Journal, 57.

"Wife's Right to Independent Advice."—45 Canada Law Journal, 61.

"The Mortgage of Letters Patent."—34 Law Magazine and Review, 150.

"Responsibility in Law."—34 Law Magazine and Review, 167.

"Habitual Drunkards."—73 Justice of the Peace, 61.

"Child Labor Acts in England."—41 Chicago Legal News, 225.

"Foreign Commerce of the United States by Principal Ports, 1908."—38 National Corporation Reporter, 58.

"Interstate Commerce Commission—Investigation."—38 National Corporation Reporter, 58.

"The Influence of Over-Capitalization."—38 National Corporation Reporter, 59.

"Characteristics and Constitutionality of Medical Legislation."—7 Michigan Law Review, 295.

"The Public Policy of Contracts to Will Future-Acquired Property."—7 Michigan Law Review, 318.

"National Sovereignty."—7 Michigan Law Review, 381.

"The Art of Legal Practice."—7 Michigan Law Review, 397.

"Jury Trial in Original Proceedings in Mandamus in the Supreme Court."—3 Illinois Law Review, 479.

"Aliens under the Federal Laws of the United States: I. Alienage and Citizenship."—3 Illinois Law Review, 493.

"A Legislative Programme of Law Reform."—3 Illinois Law Review, 512.

"The Poor Law Report, I."—126 Law Times, 367.

"Revision and Classification of Statute Law."—68 Central Law Journal, 174.

"Poor Law Reform."—73 Justice of the Peace, 98, 110.

"Registration as Affording Constructive Notice of Contents of Deeds."—68 Central Law Journal, 156.

"The Lawyer's Livelihood."—21 Green Bag, 45.

"The American Bar Association Recommendations as to Judicial Procedure."—21 Green Bag, 57.

"The Labor Law as a Basis for Suit. Part I."—16 Bench and Bar, 56.

"Ontario Company Law—Criticism of Existing Acts."—45 Canada Law Journal, 145.

"Lord Erskine."—57 American Law Register, 353.

"Origin and Development of Legal Recourse against the Government in the United States."—57 American Law Register, 372.

"The Criterion of Delusion."—1 Lawyer and Banker, 81.

"The Law's Delay."—1 Lawyer and Banker, 88.

"Northern Pacific Lands."—1 Lawyer and Banker, 91.

"Property."—1 Lawyer and Banker, 107.

"Disregard of Constitutional Limitations."—1 Lawyer and Banker, 113.

"Some Suggestions Concerning 'Legal Cause' at Common Law, I."—9 Columbia Law Review, 16.

"The Distinction in Application of the Maxim of Res Ipsa Loquitur in Passenger and Employee Cases."—68 Central Law Journal, 193.

"Jurisdiction of the Admiralty in Cases of Tort."—9 Columbia Law Review, 1.

"An Inquiry into the Power of Congress to Regulate the Intra-State Business of Interstate Railroads."—9 Columbia Law Review, 38.

"Does the Court Ever Write a Will for the Testator?"—9 Columbia Law Review, 51.

"Sanction of International Law."—9 The Brief, 1.

"Torrens System of Land Registration."—9 The Brief, 22.

"Reminiscences of Some of the Dead of the Bench and Bar of Richmond."—14 Virginia Law Register, 817.

"Party Walls."—13 Dickinson Law Review, 165.

"What Judgment Should be Entered by the Appellate Court When It Overrules a Demurrer to a Plea?"—14 Virginia Law Register, 836.

THE HUMOROUS SIDE

Not Spelt Wright.—A Tennessee lawyer recently entered on the motion docket of the court a motion to set aside a dismissal of a case for want of prosecution because the name of the plaintiff was not "spelt wright." A brother attorney, sending us the item, says, "Do you think that it was up to him to be fastidious about the spelling?"

Fair "Notis."—A correspondent sends us the following notice found posted by a farmer on a tree near Monmouth, Illinois:

"Notis—Trespassers will B persekuted to the full extent of 2 mean mungrel dogs which aint never ben overly soshibil tu 'strangers and 1 dubbel barl shot gun which aint loaded with soft pillors; dam if I ain't gettin tired of this hel-raisin on my farm."

"See Other Side."—An Ohio lawyer of large practice, whose professional card on its face is simple and dignified, has the words "See other side" in the lower left-hand corner of his card, and on the back has the following mixed compliments to law and lawyers:

"Law—The last guess of the Supreme Court

Criminal Law—Nets made to catch the little rascals and let the larger ones escape They differ from fish nets

Contempt—A legal process invoked by the court to pinch a helpless pauper and aid a millionaire's escape.

Court of Equity—A place where injustice is dispensed.

Pardon—Releasing a criminal with a political or a financial pull.

Lawyers—Men who handle the commercial interests of the world without bond; the most trusted and distrusted;

praised when they win, dispraised when they lose, and who live by their good name.

An Unbiased Judge—The noblest work of man.

Dishonest clients make dishonest lawyers. The demand creates the supply.

Going to law is like going to a church fair—you take your chances and pay for them

From Nick-a-Jack Trace to Holy Water Creek.—From the Constitution of the state of Tennessee, art. X, § 4, we copy the following picturesque description of territory thereby detached from Marion County and attached to the County of Grundy:—

"Beginning on the Grundy and Marion county line, at the Nick-a-Jack Trace, and running about six hundred yards west of Ben. Posey's, to where the Tennessee Coal Railroad crosses the line; running thence southeast through the Pocket, near William Summers', crossing the Battle creek gulf, at the corner of Thomas Wooten's field; thence running across the Little Gizzard gulf at Raven point; thence in a direct line to the bridge crossing the Big Fiery Gizzard; thence in a direct line to the mouth of Holy Water creek; thence up said creek to the Grundy county line; and thence with said line to the beginning."

A Spasm of Virtue.—The following original and unique pledge is sent us by an Oregon correspondent. It was found in the rooms vacated by a man and woman who had taken their departure suddenly.

"C—, Ore., Dec. 1st, 1907.

With the belief that the ill omen follows the ill gotten, we hereby swear on our oath the following pledge:

Part First.

We the below signed pledge ourselves from above date of pledge that our remaining lives shall be honest to our fellow man and our children and also do agree to take nothing part or parcel of anything which does not come to us by right of law of the United States. This we pledge ourselves this Monday night with out hand upon our last nickel.

Part Second.

Father, I as husband, do hereby pledge to be true to my wife and children the rest of my live long days and will let no female sex come between my wife and I. I sign the entire pledge and agree at any time that I break same to grant to my wife her freedom and further do agree to leave her the custody of the children, in event she break the pledge as per same she looses custody of children, must grant divorce. This pledge does not continue on poverty, also we pledge ourselves to send our three children to school six months out of the year, also we pledge ourselves to go to some country and build and buy a home to remain there for life.

(Signed) E. E. C.

I hereby agree to keep the first part and help my husband keep part second to the best of my ability.

Mrs. J. C.

The sequel to their good resolutions was told by the correspondent as follows: "After they had skipped out, having obtained money and credit by false pretenses, and on their way out of the little place of C—, they burglarized the depot, stole a trunk with silverware and other things, changed their names, and are now somewhere in Iowa, I understand, under another name, and selling sewing machines."



The more you know about the inside of the cigar business the more you will appreciate the cigar values I offer.

Here is a photograph of the inside of two cigars—the one on the left, a cigar picked at random from a box bought from a dealer. The one on the right a Shivers' Panatela. Note the difference. The first is a machine-made cigar and has a filler of "cuttings" or "scraps." Not only makes a bad smoking cigar with poor drawing qualities but goodness only knows *what* those "scraps" are, or *where* they have come from. They are the by-product of the cigar manufacturing business. I sell mine.

The second cigar has a filler of long, clean, clear Havana tobacco, whose history I know from the time it was imported in the leaf from the Island of Cuba, until it is boxed ready to ship to the smoker. No shorts or cuttings ever go into a Shivers' Panatela. It makes a cigar of excellent drawing qualities, fine, mellow, nutty flavor, and you can smoke it with the knowledge that it is **hand-made** by high-grade, well-paid workmen in a well-ventilated scrupulously clean factory in the centre of Philadelphia's best business district where it is open to inspection at any and all times.

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My Shivers' Panatelas are the 10c cigars of the trade. I sell them at \$5.00 per hundred or I will send a trial box of 50 for \$2.50. I let you try them before you buy them.

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In ordering, please inclose business card, or send personal references, and state which you prefer—light, dark, or medium cigars.

During the seven years in which I have been doing business under that offer I have seen my factory grow from a single loft to an entire five story and basement building in the business centre of Philadelphia. 90% of my output goes to fill repeat orders.

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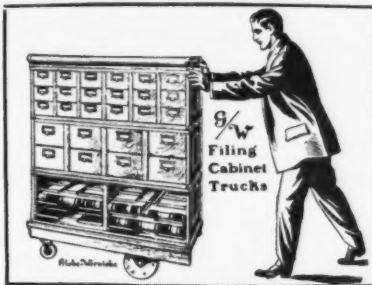
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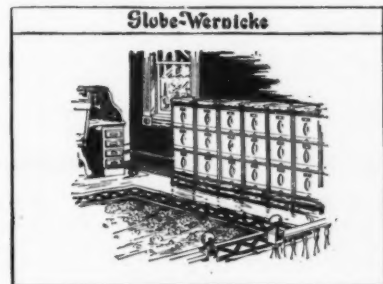
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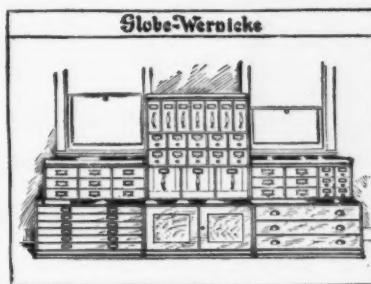
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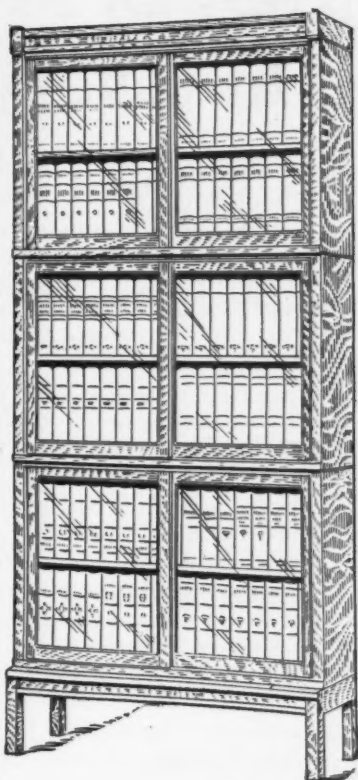
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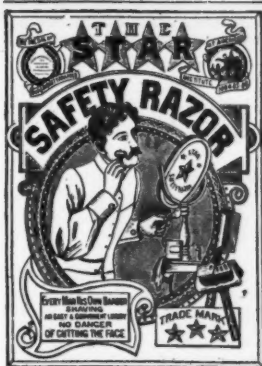
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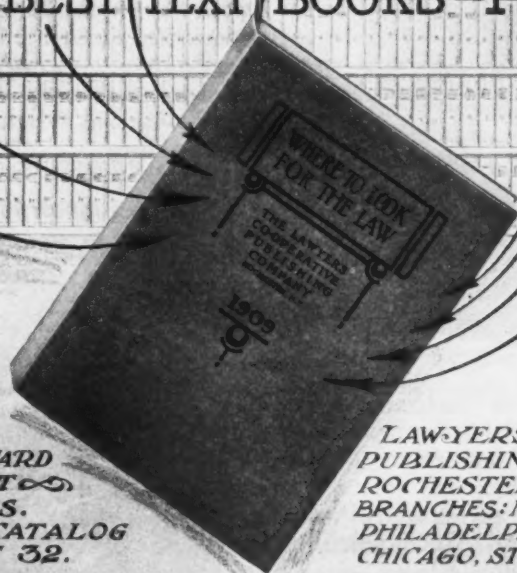
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